

AMENDED IN ASSEMBLY APRIL 3, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2549**

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**Introduced by Assembly Member Hayashi**

February 22, 2008

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An act to add Section ~~1399.819~~ 1389.35 to the Health and Safety Code, and to add Section ~~10901.85~~ 10384.5 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 2549, as amended, Hayashi. Health care coverage: ~~notification.~~ *rescission.*

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. Existing law prohibits a plan or insurer from rescinding, canceling, or limiting a contract or policy due to the plan or policy's failure to complete medical underwriting and resolve all reasonable questions arising from written information on or with an application before issuing a contract or policy. Existing law requires that an individual contract or policy be renewed except for nonpayment of the required premiums or fraud or intentional misrepresentation of material fact under the terms of the coverage by the individual.

~~This bill would require health care service plans and health insurers to, within 6 months of issuing an individual health care service plan contract or individual health insurance policy, investigate the information submitted on or with the application for the contract or~~

~~policy and notify the subscriber, enrollee, and insured whether the contract or policy will be cancelled or rescinded due to any inaccuracy in that information. The bill would prohibit the plan or insurer from cancelling or rescinding the contract or policy due to any inaccuracy in that information after the 6-month period. The bill would authorize a subscriber, enrollee, or insured to request a specified review by the director or the commissioner if he or she believes a contract or policy was cancelled in violation of that provision. The bill would require the director to notify a plan if a proper complaint exists and would require the plan to reinstate the enrollee, subscriber, or insured within 15 days of receiving that notice, pending a hearing, as specified.~~

*This bill would prohibit a health care service plan or health insurer from rescinding an individual health care service plan contract or individual health insurance policy for any reason after 6 months following the issuance of the contract or policy. The bill would authorize a subscriber, enrollee, policyholder, or insured who believes his or her individual contract or policy was wrongfully rescinded to request review of that rescission.*

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1389.35 is added to the Health and Safety
- 2     Code, to read:
- 3     1389.35. (a) Notwithstanding any other provision of law, after
- 4     six months following the issuance of an individual health care
- 5     service plan contract, a plan shall not rescind the contract for any
- 6     reason.
- 7     (b) A subscriber or enrollee who believes that his or her
- 8     individual health care service plan contract was wrongfully

1 *rescinded may request a review of the rescission by submitting a*  
2 *complaint to the director.*

3 *SEC. 2. Section 10384.5 is added to the Insurance Code, to*  
4 *read:*

5 *10384.5. (a) Notwithstanding any other provision of law, after*  
6 *six months following the issuance of an individual health insurance*  
7 *policy, a health insurer shall not rescind the policy for any reason.*

8 *(b) A policyholder or insured who believes that his or her*  
9 *individual health insurance policy was wrongfully rescinded may*  
10 *request a review of the rescission by submitting a complaint to the*  
11 *commissioner.*

12 ~~SECTION 1. Section 1399.819 is added to the Health and~~  
13 ~~Safety Code, to read:~~

14 ~~1399.819. (a) Notwithstanding Section 1389.3, within six~~  
15 ~~months of issuing an individual health care service plan contract,~~  
16 ~~the plan shall investigate the information submitted on or with the~~  
17 ~~application form for the contract and notify the corresponding~~  
18 ~~subscriber and enrollees whether that information was deemed to~~  
19 ~~be accurate and whether the contract will be cancelled or rescinded~~  
20 ~~because of any inaccuracy in that information.~~

21 ~~(b) Notwithstanding Sections 1357.54, 1389.3, and 1399.810,~~  
22 ~~after six months following the issuance of an individual health~~  
23 ~~care service plan contract, a plan shall not cancel or rescind the~~  
24 ~~contract due to any inaccuracy in the information submitted on or~~  
25 ~~with the application form for the contract.~~

26 ~~(c) A subscriber or enrollee who believes that his or her contract~~  
27 ~~was cancelled or rescinded in violation of this section may request~~  
28 ~~a review by the director. If the director determines that a proper~~  
29 ~~complaint exists under this section, the director shall notify the~~  
30 ~~plan and the enrollee or subscriber. Within 15 days after receipt~~  
31 ~~of that notice, the plan shall reinstate the enrollee or subscriber~~  
32 ~~pending a hearing before the director. If, after the hearing, the~~  
33 ~~director determines that the cancellation or rescission was proper,~~  
34 ~~the director shall authorize the plan to cancel the enrollee or~~  
35 ~~subscriber's contract.~~

36 ~~(d) The director shall review requests submitted pursuant to~~  
37 ~~subdivision (c) within a period of time appropriate to the overall~~  
38 ~~well-being and health of affected subscribers and enrollees.~~

39 ~~(e) This section shall only apply to individual health care service~~  
40 ~~plan contracts issued on or after January 1, 2009.~~

1     ~~SEC. 2. Section 10901.85 is added to the Insurance Code, to~~  
2     ~~read:~~

3     ~~10901.85. (a) Notwithstanding Section 10384, within six~~  
4     ~~months of issuing an individual health benefit plan, the carrier~~  
5     ~~shall investigate the information submitted on or with the~~  
6     ~~application form for the plan and notify the corresponding insured~~  
7     ~~whether that information was deemed to be accurate and whether~~  
8     ~~the plan will be cancelled or rescinded because of any inaccuracy~~  
9     ~~in that information.~~

10    ~~(b) Notwithstanding Sections 10273.6, 10384, and 10901.8,~~  
11    ~~after six months following the issuance of an individual health~~  
12    ~~benefit plan, a carrier shall not cancel or rescind the plan due to~~  
13    ~~any inaccuracy in the information submitted on or with the~~  
14    ~~application form for the plan.~~

15    ~~(c) An insured who believes that his or her plan was cancelled~~  
16    ~~or rescinded in violation of this section may request a review by~~  
17    ~~the commissioner. If the commissioner determines that a proper~~  
18    ~~complaint exists under the provisions of this section, the~~  
19    ~~commissioner shall notify the carrier and the insured. Within 15~~  
20    ~~days after receipt of that notice, the carrier shall reinstate the~~  
21    ~~insured pending a hearing before the commissioner. If, after the~~  
22    ~~hearing, the commissioner determines that the cancellation or~~  
23    ~~rescission was proper, the commissioner shall authorize the carrier~~  
24    ~~to cancel the insured's policy.~~

25    ~~(d) The commissioner shall review requests submitted pursuant~~  
26    ~~to subdivision (c) within a period of time appropriate to the overall~~  
27    ~~well-being and health of affected insureds.~~

28    ~~(e) This section shall only apply to individual health benefit~~  
29    ~~plans issued on or after January 1, 2009.~~

30    ~~SEC. 3. No reimbursement is required by this act pursuant to~~  
31    ~~Section 6 of Article XIII B of the California Constitution because~~  
32    ~~the only costs that may be incurred by a local agency or school~~  
33    ~~district will be incurred because this act creates a new crime or~~  
34    ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
35    ~~for a crime or infraction, within the meaning of Section 17556 of~~  
36    ~~the Government Code, or changes the definition of a crime within~~  
37    ~~the meaning of Section 6 of Article XIII B of the California~~  
38    ~~Constitution.~~

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